

Minutes
Workers' Compensation Study Project

Status Meeting, September 18, 2006

1:30-3:30 pm, Conference Room A/B

Facilitator: Anne Wolfinger

Project team present: Lt. Governor John Bohlinger, Jerry Keck, Dore Schwinden, Anne Wolfinger, Diana Ferriter, Dave Elenbaas, Tyler Turner, Keith Messmer, Jeanne Johns, Debbie Blossom, Connie Ferriter, Wade Wilkison, Mari Kindberg, Chris Catlett, Sharon Peterson, Erin Austin

Others: Larry Jones (Liberty NW), Mary Boyle, Nancy Butler, Peter Strauss (Montana State Fund), Riley Johnson (NFIB), Evan Karp (Montana Health Systems), Joe O'Rourke (F.H. Stoltze Land & Lumber), Jon Bennion (MT Chamber of Commerce), Don Judge (IWRC), Kris Wilkinson, (Legislative Fiscal Division), Shawn Bubb (MSGIA), Dick Martin (Fair Claim), Stacy Tempel-St. John (Fair Claim), R. D. Marks, MD (Western MT Clinic), Herb Keating (Work Rehab Consultants), Pat Murdo (Legislative Services Division), Clara Wilson (Workers' Compensation Court (WCC)), Jeanine Blaner (WCC), Kathy Jarvic (PACBLU), Trudy Winslow (PACBLU), Micki Breedlove (PACBLU), Mike Taylor, (NCCI), Tim Fitzpatrick (Crawford & Co), Georgeanne Paul (Crawford & Co), Chuck Paske (Work Wright), Will Hammerquist (Lt. Governor's Office), Karen Black, (Vocational Counseling), G. Brian Zins (MT Medical Association), Gary Lusin, (Physical Therapist).

Welcoming & Opening Remarks

Lt. Governor John Bohlinger welcomed everyone to the meeting and thanked everyone for his or her interest in the project. He expressed his appreciation for all the collaborative energy and effort to develop a plan to lead Montana into the future.

Introductions

Anne Wolfinger welcomed everyone and had everyone introduce themselves and whom they represented.

Oregon Premium Rankings, Revisited

Tyler Turner, Economist with the Department of Labor & Industry's Research & Analysis Bureau presented the Department's plan to conduct an "in-depth" look at the Oregon Workers' Compensation Premium Rate Ranking, 2004. **Refer to handouts and website for power point presentation.** Tyler explained Oregon's methodology is based on class codes according to the share of losses within the Oregon system and uses Oregon's payroll, as a weighting mechanism for all states, while loss costs and adjustment factors are state specific. He pointed out that the results are biased because the study only allows for comparisons of Oregon's system through the use of Oregon class codes and payrolls. The study is limited because it doesn't allow for a true analysis of rates in each state, ignores potentially important class codes and industries in states whose economy fails to resemble Oregon's, and provides no indication of class codes that may drive overall rates.

Tyler explained the Department plans to “redo” the study by analyzing all class codes for each state, not just those chosen by Oregon, utilize payrolls for each state, not just Oregon payroll, and develop analysis around not only ranking of states, but also rate drivers within each state.

Tyler explained the reason the Department wants to “redo” the study is to see if there’s an explanation for why Montana ranks this way so we can understand the results. Oregon’s methodology doesn’t allow us to answer why.

Mike Taylor, NCCI, agreed the ranking is done for Oregon’s marketing purposes and isn’t comparing apples to apples.

Larry Jones, Liberty, asked if Tyler could predict Montana’s ranking using our methodology. Tyler didn’t want to predict a ranking at this time.

Herb Keating, Work Rehab, asked if we were going to compare the regional states. Anne Wolfinger explained the 12 study states we had selected early in the study and why they were selected.

Herb Keating questioned the purpose of the study. Jerry Keck explained there was a series of economic seminars last spring that referenced the Oregon ranking and used it to question if Montana “was open for business”. In addition, Department staff has heard for several years that Montana has high premiums and low benefits. These anecdotal statements are why the Department was asked by the Governor’s office to conduct a study to look at the issues.

Mike Taylor advised in the 1980’s Oregon was where Montana is now so they developed their study and ranking to show how they’ve improved their system over the years.

Economic Metrics

Jerry Keck presented a comparison with the selected study states of numerous economic metrics that the Department thinks could impact loss costs and other costs to workers’ compensation systems. **Refer to the handout and website for power point presentation.** Jerry emphasized the project purpose “to define and conduct a study of the Montana workers’ compensation system – premiums, benefits, costs and other factors – as compared to selected other states”. He explained these economic metrics are a comparison of “other factors”. Jerry also advised John Burton, a nationally recognized consultant on workers’ compensation, reviewed the comparisons and offered comments.

Average Annual Wage – 2004 – Montana had the lowest wages of the study states. John Burton commented that the low wage should result in low wage loss benefits per claim or low benefits per injured worker, since the formula for most types of wage loss benefits is 66 2/3 percent of preinjury wages. However, the level of wages by itself should not affect premiums per \$100 of payroll.

Multiple Job Holders – 2004 – In 2004, 9% of the workforce in Montana held more than one job. John Burton commented there are two ways a higher percentage of multiple jobholders might increase benefits and costs in Montana. First, benefits are calculated using the wages earned in

all jobs, not just the job where the worker was injured. Second, there are studies showing that workers are more likely to be injured when working overtime (or when the unemployment rate is low). If multiple job holders are working more hours than persons holding only one job, then they may be more prone to more injuries – more benefits and higher costs.

Median Age – 2004 – Montana has the oldest median age workers among the study states. Burton referenced two studies worth reading: Douglas Tatttrie et al, *Workers' compensation and the Changing Age of the Workforce*, published by the WCRI in 2000. The study concluded that the changing age of the workforce does not dramatically affect workers' compensation systems on average. Older workers have slightly higher costs per claim than do middle-aged workers; older workers tend to have lower claim frequencies, which offsets the higher costs per claim; younger workers far outnumber older workers. The other study is John Burton and Emily Spieler, *Workers' Compensation and Older Workers*. The study concluded that the relationship between age and workers' compensation benefits is fragmentary and inconclusive.

Average Hours Worked – 2002 – Montana ranked 4th highest among the study states. Burton offered the same comments as Multiple Job Holders.

Average Unemployment Rate – 2005 – Burton's comments based on his research were lower unemployment rates are associated with more injuries (higher unemployment rates are associated with fewer injuries) and the duration of workers' comp benefits typically declines when unemployment rates are low because employers are more willing to accommodate disabled workers when workers are generally unavailable and because injured workers are more likely to be recalled or find alternative jobs in tight labor markets.

High School Education and College Education – 2004 – Montana ranked 1st with the highest number of the population with a high school education and ranked 7th with the highest population with a college education. Burton commented that the relatively high levels of education in Montana should be associated with fewer injuries and lower benefits and costs.

Health Care Coverage – 2004 – Montana ranked 10th out of the 14 study states for highest population with health care coverage. Burton commented that health care coverage in Montana appears to be slightly below the average in the comparison states, and so this may be a minor factor in causing workers' compensation benefits and costs to be higher in Montana. However, other aspects of the health care system (such as the form and effectiveness of managed care in the workers' compensation program) are likely to be more important.

Private Employment by Size of Employer - March 2005 – Montana ranked number 1 among the states with the most employees working for employers with less than 5 employees. Montana ranked number 14 among the states with the least employees working for employers with more than 100 employees.

Private Business by Size of Employer – March 2005 – Montana ranks 2nd with the most employers that employ less than 5 workers and ranked 13th for the least number of employers that employ more than 50 workers. These rankings could be an indication of the difficulty

injured workers have in returning to work because small employers have less return to work opportunities and may not be able to hold jobs open for injured workers.

Industries by Total Payroll – 2004 – The last slide provides Montana’s top 10 industries by payroll and ranks the other states in relation to Montana’s top 10 industries.

Jerry summarized by pointing out that John Burton didn’t think looking at the variables one at a time was very promising. He recommended a multiple regression approach to sort out any relationships between variables to explain any differences between Montana and other states in loss costs and the premium rates. Jerry advised Department staff would be working on the regression analysis.

There was discussion among the stakeholders about how the variables would be useful to the Study. Jerry emphasized the purpose and scope of the study again: “to define and conduct a study of the Montana workers’ compensation system – premiums, benefits, costs and other factors – as compared to selected other states” and advised the data would be provided to a stakeholders group to use in reaching conclusions and making recommendations for improvement in Montana’s system.

Information Updates:

WCRI Administrative Inventory – Diana Ferriter reported that Duncan Ballantyne, Senior Analyst, is completing his draft report and will present it internally at WCRI for review and comments. The draft will then be sent out to the 80 individuals Duncan interviewed in Montana around mid October and ask for comments, changes, and suggestions by November 1st. All of the comments will be addressed in a memo from Duncan and changes made to the report. The report will be finalized and presented to the public at the Workers’ Compensation Educational Conference in January.

Medical Fee Schedule Study – Keith Messmer reported that Ingenix, the contractor looking at converting our fee schedule from multiple conversion factors to a single conversion factor for non hospital specialties, should have the results by the end of the month. Ingenix will then look at facility fees. The results of Ingenix’s work will be given to the Stakeholder’s Group to review and make recommendations on Montana’s fee schedule.

Medical/Subsidy Survey – Jeanne Johns reported that staff is compiling the results and the results will be shared at an upcoming status meeting.

Return to Work Study – Debbie Blossom reported the study to determine outcomes in Montana for return to work opportunities for injured workers is progressing and will be reported at a future status meeting.

Workers’ Compensation Education Conference – Dave referred to the handout of the Agenda for the conference to be held on January 10 and 11, 2007 and advised the handout is on the website and there is an on-line registration tool on the website.

Project Phase I Feedback

Anne Wolfinger referenced the Stakeholder Feedback Request form in the handouts and asked for some oral feedback on the questions from the project team. She stated stakeholders could provide feedback in writing on the form and advised the form would be placed on the website.

Some of the feedback received during the meeting included:

Gary Lusin thought medical fees should include an adjustment for medical provider's expenses connected with all the paperwork involved with workers' compensation patients.

Riley Johnson and Herb Keating suggested metrics that show Montana's urban to rural comparison or small population.

Mike Taylor commented those metrics help explain the choice of alternative jobs is limited.

Gary Lusin questioned whether or not the impact of Supreme Court decisions would be discussed. Diana advised those impacts would probably be discussed in Phase II with the stakeholder's group.

Most of the audience felt ERD had done a good job communicating the purpose and progress of the project.

Dick Martin expressed concern over his confidence level with the comparisons. He explained there are so many variables in the costs of workers' compensation and he's afraid policy makers will point to worker's benefits and recommend reduction in benefits to reduce costs.

Dick Martin also suggested the department should gather data on insurer's overhead costs which appear to him to represent a significant portion of premium dollars.

Jerry Keck expressed his commitment to improving outcomes to injured workers while trying to find savings in the system and reducing costs.

Several in the audience provided comments about the primary cost drivers in the system. Gary Lusin stated the system itself is a cost driver. Dr. Marks expressed frustration with the time it takes to get medical authorization for treatment and stated the medical treatment should be determined between the doctor and patient and not by the insurer.

Larry Jones talked about the insurer's inability to get timely information to adjust the claim. He pointed to the barrier of obtaining information and the need to speed the flow of information. He suggested allowing for information exchange using an examination under oath. He felt if claimants, medical providers, and claims examiners had to provide information under oath, the exchange of information would be quicker.

Project Phase II Stakeholders Group

Jerry Keck explained that once Phase I (data gathering and state comparisons) is completed, the Department will turn the information over to a group of stakeholders to review the information and make recommendations for change.

There is no legislative or mandated model for the stakeholder's group. The department has decided the group will have 5 seats at the table for employer/insurer representatives, 5 seats for labor/injured worker representatives, 1 seat for the Montana Medical Association, 1 seat for the Hospital Association, and the Lt. Governor and Jerry Keck for the Department representative.

Jerry stated there is no push for changes in the 2007 Legislative session. The group needs to assess the data and discuss policy issues and that probably can't happen before the 2007 Legislative Session.

Jerry asked the audience to send recommendations of names for representatives on the group to Anne Wolfinger, Jerry Keck, the Lt. Governor, or Dore Schwinden. He advised the Lt. Governor or Department would decide who would be on the group. He stated we are looking for knowledgeable, reasonable people who will have the support of the parties they represent.

He stated since 65% of dollars are paid out in medical benefits, a subgroup would also be formed to look at the medical fee schedules. The sub group will probably have a representative from each medical specialty and employer and injured worker representatives.

Tim Fitzpatrick asked if vocational rehabilitation providers would be represented on the group because they are provided for in the statutes. Jerry advised the Department will consider that request.

The first stakeholder's meeting is planned for Monday, December 4th, so names should be sent to the Department as soon as possible. The Department will provide more information on the Stakeholder's group at the next status meeting.

Next Steps:

The next status meeting will be November 6, 2006.

The 1st meeting of the stakeholder's group is planned for December 4, 2006.